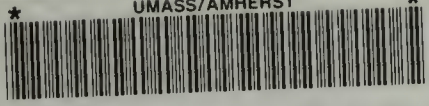


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CIVIL SERVICE

GOVERNMENT DOCUMENTS

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MASSACHUSETTS

Prepared by
THE
MASSACHUSETTS
DIVISION OF
PERSONNEL
ADMINISTRATION



The Commonwealth of Massachusetts

Division of Personnel Administration

One Ashburton Place, Boston, MA 02108

June 2, 1978

TO APPOINTING AUTHORITIES:

Your attention is invited to the following legislation enacted in 1977 affecting the Civil Service Law and Rules.

AUTHORIZING THE ALLOWANCE OF CREDIT FOR CERTAIN EMPLOYMENT
AND EXPERIENCE IN THE MARKING OF CIVIL SERVICE EXAMINATIONS

Chapter 91 of the Acts of 1977 strikes out the last sentence of the first paragraph of Section 10, Chapter 31 of the General Laws as appearing in Section 78 of Chapter 835 of the Acts of 1974, thus eliminating the requirement that credit for employment (training) and/or experience must be the result of an appointment or promotion after certification from an eligible list for the position. This law now applies to any examination held prior to April 5, 1977, but for which the grades have not yet been released. The effective date of this Act is April 5, 1977.

RELATIVE TO QUALIFICATIONS FOR PROMOTIONAL APPOINTMENTS OF
CERTAIN TEMPORARY EMPLOYEES

Chapter 139 of the Acts of 1977 amends the tenth paragraph of Section 15 of Chapter 31 of the General Laws, to allow a person appointed temporary from certification, and who has remained employed in this temporary appointment for at least one year, to be eligible for promotional appointment (examination) in the same manner as if such person had received a permanent appointment. This Act further provides that such person shall be allowed credit for employment or experience in the position for which the examination was held. The effective date of this Act is July 28, 1977.

FURTHER DEFINING THE ELIGIBILITY OF VIETNAM VETERANS TO TAKE
CIVIL SERVICE EXAMINATIONS.

Chapter 169 of the Acts of 1977, amends the first paragraph of Section 1 of Chapter 399 of the Acts of 1967 (the Vietnam Veterans make-up examination law) by pinpointing the termination date that Vietnam Veterans are eligible to file an application.

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State Purchasing Agent

to take an open competitive or continuous civil service examination, that they were unable to take because of military service. Any Vietnam veteran, if he so requests or has so requested in writing, to the Personnel Administrator not later than one hundred and twenty days after the termination of his military service or one hundred and twenty days after the effective date of this Act for veterans who were discharged between January 1, 1975 and July 1, 1977, may upon such request be given an examination, comparable to that which he had been unable to take because of his service in said armed forces.

Chapter 399 is further amended by replacing Section 2 with a section to provide that Chapter 169 of the Acts of 1977 will cease to be operative on May 7, 1979. The effective date of this Act is August 9, 1977.

INCREASING THE TIME WITHIN WHICH THE CIVIL SERVICE COMMISSION SHALL GIVE NOTICE OF ITS DECISION FOLLOWING A HEARING UNDER THE CIVIL SERVICE LAW.

Chapter 230 of the Acts of 1977 amends paragraph (b) of Section 43 of Chapter 31 of the General Laws to provide that the duration between completion of a Civil Service Commission hearing and notice of its decision to all parties concerned shall be thirty (30) days (previously this duration was ten (10) days). The effective date of this Act is August 21, 1977.

FURTHER REGULATING THE PROMOTION OF CALL FIREFIGHTERS TO PERMANENT STATUS.

Chapter 307 of the Acts of 1977, amends Section 36 of Chapter 48 of the General Laws, to permit persons who are appointed as call Firefighters from Civil Service lists to be appointed as full-time Firefighters after three years of service (formerly it was five years of service) as call Firefighters without further civil service examination. The effective date of this Act is July 16, 1977.

PROHIBITING DISCRIMINATION AGAINST CIVIL SERVICE APPLICANTS WHO PREVIOUSLY HAD CANCER.

Chapter 326 of the Acts of 1977 deletes the first sentence of Section 13A of Chapter 31 of the General Laws, and provides that a physically qualified civil service applicant who previously had cancer may not be discriminated against for his previous affliction as long as this type of applicant signs a waiver of rights to disability benefits with respect to said cancer. The effective date of this Act is September 21, 1977.

INCREASING THE PROBATIONARY PERIOD FOR CERTAIN FIREFIGHTERS

Chapter 438 of the Acts of 1977 strikes out the first sentence of Section 20D of Chapter 31 of the General Laws and substitutes a new sentence which provides that a Firefighter shall be regarded as holding a permanent, full-time position in

the official or labor service if he has been appointed to this position and has actually performed the duties of the office or position for a probationary period of twelve (12) months (formerly it was six (6) months). This act applies to all persons appointed on or after October 16, 1977. The effective date of this Act is October 16, 1977.

INCREASING THE TIME AN EMPLOYEE MUST BE NOTIFIED OF THE RESULTS OF A SUSPENSION HEARING.

Chapter 507 of the Acts of 1977 amends paragraph (e) of Section 43 of Chapter 31 of the General Laws by increasing the time period that an appointing authority shall give an officer or employee suspended written notice of his decision after a hearing from two days to seven days. The effective date of this Act is December 8, 1977.

GRANTING CERTAIN PROVISIONAL EMPLOYEES A RIGHT TO AN INFORMAL HEARING UPON TERMINATION IF THE REASON FOR SUCH TERMINATION IS TO BECOME PART OF THEIR PERMANENT RECORD

Chapter 624 of the Acts of 1977 amends paragraph (a) of Section 43 of Chapter 31 of the General Laws, to allow provisional employees the right to an informal hearing upon termination under the following conditions: The employee must have held his provisional employment for not less than nine months, he must request a hearing in writing before the appointing authority or his designee, within ten days of discharge or removal of such provisional employee, and if the reason(s) for the discharge are to become part of his permanent records and such termination arises from allegations relative to the employees personal character or work performance, and not a result of failure to meet certain minimum work skills or specifications, or as the result of the establishment of an eligible list.

The decision of the appointing authority is final and binding and written notification of his decision shall be made within ten days of the informal hearing to all parties concerned. The appointing authority can affirm the action of the employee's supervisor or department head and direct the reasons for such termination to become part of the employee's permanent records, otherwise it shall be reversed and the allegations shall be removed from the employee's records. The effective date of this Act is January 9, 1978.

RELATIVE TO THE USE OF UNASSEMBLED EXAMINATIONS FOR POSITIONS REQUIRING EMERGENCY MEDICAL CARE TRAINING.

Chapter 728 of the Acts of 1977 strikes out the first paragraph of Section 6B of Chapter 31 of the General Laws and substitutes a new paragraph which will permit the Division to hold an unassembled examination for the position of emergency medical technician. The effective date of this Act is February 8, 1978.

PERMITTING CERTAIN EMPLOYEES TO CONTINUE WORKING AFTER THEY
HAVE REACHED THE MANDATORY RETIREMENT AGE.

Chapter 735 of the Acts of 1977, amends Chapter 32 of the General Laws by adding section 90F which allows any member in service, classified in Group 1, and who has attained age seventy to exercise the option of continued service. Such continued employment is contingent upon the individual's successful passage of an annual physical and mental medical examination to be given by an impartial physician designated by the retirement authority. This examination shall be held at the individual's expense. No retirement deduction shall be made from the compensation of the employee under Chapter 32 for services rendered after age seventy and upon retirement, such members shall receive the same superannuation retirement allowance he/she would have been entitled to had he/she retired at age seventy. Chapter 735 became effective on February 13, 1978.

EXTENDING CERTAIN VETERAN'S BENEFITS TO SPOUSES AND PARENTS
OF FEMALE VETERANS.

Chapter 815 of the Acts of 1977 affects Chapter 31, Chapter 115, and Chapter 121 in the following ways:

Section 1 of Chapter 815 strikes out Section 23B of Chapter 31 and substitutes a new Section 23B which grants preference to an un-married widow and widowers of veterans, as well as their single, unremarried male or female parent.

Section 2 of Chapter 815 strikes out the second and third paragraphs of Section 24 of Chapter 31 and substitutes two new paragraphs which provide eligible lists preference (below the names of veterans) to surviving spouses or surviving parents of veterans. These new paragraphs thus grant the surviving father as well as mother of a veteran, and the surviving male, as well as female spouse of a veteran, preference in labor service applicancy.

Section 3 of Chapter 815 strikes out Section 9 of Chapter 115(a) which limits female domiciliary facilities to fourteen beds and substitutes a new Section 9 with no such limitation.

Section 4 of Chapter 815 amends the second sentence of the definition of the word "Veteran" as appearing in Section 1 of Chapter 121B of the General Laws to include the spouse, surviving spouse, parent or other dependent of such person. The old definition which was amended included the widow, wife, mother and or other dependent of such persons.

Section 5 of Chapter 815 amends subsection 3 of the eighth paragraph of Section 34 of Chapter 121B to grant surviving spouses and parents, rather than only surviving widows and mothers of veterans of World War II, preference as potential buyers of residences constructed under section 34 of Chapter 121B of the General Laws. The effective date of this Act is March 12, 1978.

PROVIDING FOR EQUAL EMPLOYMENT RIGHTS FOR WOMEN AS POLICE OFFICERS.

Chapter 822 of the Acts of 1977, amends Section 20 of Chapter 31 of the General Laws by adding Section 20E to provide that persons eligible for appointment or promotion as Police Officers shall be determined from a certification list without regard or consideration as to the sex of such person. The effective date of this Act is March 16, 1978.

REQUIRING HEARINGS OF GOVERNMENTAL BODIES TO MUNICIPALITIES TO BE HELD IN THOSE AREAS OR MUNICIPALITIES.

Chapter 895 of the Acts of 1977 amends Chapter 30A of the General Laws by adding Section 11C, which provides that when the subject matter of an agency's hearings concerns only a single municipality or only a particular geographic area of the Commonwealth, these hearings shall be held only in those particular municipalities or areas concerned. This Act does not restrict an agency from holding an adjudicatory hearing in any appropriate location, does not apply to hearings held as part of an adjudicatory proceeding, and does not apply to the Division of Personnel Administration or the Civil Service Commission. The effective date of this Act is March 20, 1978.

EXTENDING THE OPERATION OF THE LAW IMPLEMENTING CERTAIN FEDERAL MANPOWER PROGRAMS.

Chapter 985 of the Acts of 1977 amends Section 2 of Chapter 391 of the Acts of 1974 and extends Chapter 778 of the Acts of 1972 from July 1, 1978, to July 1, 1980. Chapter 985 became effective on April 13, 1978.

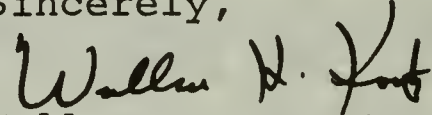
NOTE:

Chapter 985 of the Acts of 1977 extends Chapter 778 of the Acts of 1972 from July 1, 1978, to July 1, 1980. Chapter 778 is an Act which increases accessibility to the Civil Service system for the disadvantaged through training, examinations, and establishment of a special eligibility list.

Requests for copies of the Acts referred to herein should be directed to the Secretary of the Commonwealth, State Book Store, Room 116, State House, Boston, Massachusetts 02133. See Appendix A for a listing of the various chapters summarized in the document.

If you need extra copies of this document, please notify me forthwith. A limited number of extra copies were made. These will be held for a reasonable time for such request for additional copies and then released for general distribution to the public.

Sincerely,

A handwritten signature in dark ink, appearing to read "Wallace H. Kountze". The signature is fluid and cursive, with the first name "Wallace" being the most prominent.

Wallace H. Kountze
Personnel Administrator

CIVIL SERVICE COMMISSION

Amelia L. Miclette, Chairman
Wayne A. Budd
John F. Donegan
Richard Linden
Ruth MacRoberts

MASSACHUSETTS GENERAL LAWS

Chapter 31, Section 43

(1904, c. 314; 1905, c. 243; 1918, c. 247; 1945, c. 667; 1946, c. 379; 1947, c. 373; 1948, c. 240; 1949, c. 170, c. 429; 1955, c. 407; 1956, c. 629; 1957, c. 432, 569; 1959, c. 569; 1962, c. 205, 776; 1963, c. 26, 801; 1964, c. 275; 1965, c. 33, 281, 361; 1968, c. 637; 1969, c. 766; 1970, c. 72; 1971, c. 179; 1974, c. 835; 1975, c. 557; 1976, c. 446; 1977, c. 230, c. 507, c. 624)

(a) Every person holding office or employment under permanent appointment in the official or labor service of the commonwealth, or of any county, city or town thereof, shall have unlimited tenure of office or employment, subject to the provisions of this chapter and the rules made thereunder. He shall not be discharged, removed, suspended for a period exceeding five days, laid off, transferred from such office or employment without his consent in writing if he held office or employment prior to October fourteen, nineteen hundred and sixty-eight, lowered in rank or compensation without his consent in writing, nor shall his office or position be abolished, except for just cause and for reasons specifically given him in writing. Before any action affecting employment or compensation referred to in the preceding sentence is taken, the officer or employee shall be given a written statement of the specific reason and reasons for the contemplated action, together with a copy of sections forty-three, forty-five and forty-six A, and shall be given a full hearing before the appointing authority or a hearing officer designated by said appointing authority on

the specific reason or reasons given, of which hearing he shall have at least three days written notice from the appointing authority, except in cases of separation from service in the official or labor service, resulting from lack of work or lack of money or from abolition of positions, in which case at least seven days written notice of hearing shall be given by the appointing authority. If said hearing is conducted by a hearing officer, his findings shall be reported forthwith to the appointing authority for action. Within seven days after the filing of the report of the hearing officer, or within two days after completion of the hearing if the appointing officer presided, the appointing authority shall give to the employee affected a written notice of his decision, stating fully and specifically the reasons therefor.

Every person holding office or employment under the provisional appointment in the official or labor service of the commonwealth or subdivisions thereof, who has been employed in such office or position for not less than nine months, shall be entitled, at their request in writing, to an informal hearing before the appropriate appointing authority or his designee within ten days of the discharge or removal of such provisional employee, if the reason for such discharge or removal is to become part of his or her permanent record and such termination arises from allegations relative to such employee's personal character or work performance, and not a specific result of failure to meet certain minimum work skills or specifications, or as the result of the establishment of an eligible list. The decision of the appointing authority shall be final and binding, and notification of the decision of the appointing authority shall be

made in writing and sent to all parties concerned within ten days of such informal hearing. If the appointing authority finds that the action of such employee's supervisor or department head, as the case may be, was justified, such action shall be affirmed, and the appointing authority may direct the reasons for such termination to become part of said employee's permanent record, otherwise it shall be reversed and such allegations of said employee's conduct shall be stricken from their employment record.

(b) If within ten days after receiving written notice of the decision of the appointing authority the person so discharged, removed, suspended, laid off, transferred, lowered in rank or compensation, or whose office or position was abolished, shall so request in writing, he shall be given a hearing before a member of the commission or some disinterested person designated by the chairman of the commission. Said hearing shall be commenced in not less than three nor more than ten days, and shall be completed within thirty days, after the filing of such request, unless, in either case, both parties thereto shall otherwise agree in writing, or unless a continuance is deemed necessary or advisable in the discretion of the hearing officer, and the findings shall be reported forthwith to the commission for action. The decision of the commission shall be in writing and notice thereof sent to all parties concerned within thirty days after filing of the report. If the commission finds that the action of the appointing authority was justified, such action shall be affirmed; otherwise, it shall be reversed and the person concerned shall be returned to his office or position without

loss of compensation. The commission may also modify any penalty imposed by the appointing authority.

(c) Any hearing under this section shall, if either party concerned so requests in writing, be public, and at any such hearing the person concerned shall be allowed to answer the charges preferred against him either personally or by counsel.

(d) The reasons, notices and answers and the order of discharge, removal, suspension, layoff, transfer, lowering in rank or compensation or abolition of the office or position, and the facts as found by the commission, shall be subject to judicial review by the municipal court of the city of Boston or by the district court within the judicial district of which such person resides, as provided in section forty-five.

(e) A suspension for a period not exceeding five days may be made only by the appointing authority or by a subordinate to whom authority to make such suspensions has been delegated, or by a chief of police, or officer performing similar duties, however entitled, or by a subordinate to whom such authority has been delegated by him, and shall be made only for just cause. The officer or employee suspended shall be reinstated by the person authorized to make the suspension at the expiration of the period of such suspension, but shall not be entitled to compensation for such period unless, as hereinafter provided, the suspension is found after hearing or upon appeal to have been without just cause. Within twenty-four hours after his suspension, such officer or employee shall be given a copy of sections forty-three, forty-five and forty-six A by the person authorized to make the suspension, together with a written notice stating the specific reason for

the suspension and informing him that he may, within forty-eight hours of his receipt of such notice, request in writing a hearing by the appointing authority on the question of whether there was just cause for the suspension and if he so requests he shall be given a hearing within five days of the receipt of such request by the appointing authority. A copy of the notice of suspension to the officer or employee shall be forwarded forthwith to the personnel administrator by the person authorized to make the suspension, together with a request for the approval of reinstatement of the officer or employee to be effective at the expiration of the period of suspension. Whenever such hearing is given, the appointing authority shall give the officer or employee suspended a written notice of his decision within seven days after the hearing. An officer or employee whose suspension under this paragraph is decided, after hearing, to have been without just cause shall be deemed not to have been suspended and he shall be entitled to compensation for the period for which he was suspended, and if it is decided, after hearing, that there was just cause for such suspension such officer or employee may appeal to the commission as provided in paragraph (b) and he shall be entitled to judicial review of the action taken by the commission as provided in paragraph (d). The provisions of paragraph (c) shall apply to all hearings under this paragraph. No officer or employee shall be subsequently discharged, removed, suspended for a period exceeding five days, laid off, transferred from his office or employment without his consent if he held office or employment prior to October fourteen, nineteen hundred and sixty-eight or lowered in rank or compensation, nor shall his office or

position be abolished, for the same specific reason or reasons for which he was originally temporarily suspended for a period not exceeding five days under this paragraph except in accordance with paragraph (a). Notice of any action taken by the appointing authority under this paragraph shall be forwarded forthwith to the personnel administrator.

(f) An officer or employee shall automatically be reinstated at the end of the first period for which he was suspended. Any subsequent reinstatement after suspension shall be subject to the approval of the administrator, and, if denied, an appeal may be taken to the commission as provided in paragraph (b) of section two. The notice required by paragraph (a) of this section to be given to an employee whom it is proposed to suspend after a prior suspension shall state that his reinstatement after such suspension is subject to the approval of the administrator.

(g) Punishment duty shall not be imposed without just cause upon any police officer or fire fighter subject to this chapter. A police officer or fire fighter upon whom punishment duty is imposed shall, within twenty-four hours of the imposition of such punishment duty, be given a copy of this section and of section forty-five, together with a written notice stating the specific reason for the imposition of such punishment duty and the duration thereof and informing him that he may, within forty-eight hours of receipt of such notice, request in writing a hearing by the appointing authority, and if he so requests he shall be given a hearing within five days of receipt of such request by the appointing authority. A copy of the notice of imposition of

punishment duty shall be forwarded forthwith to the personnel administrator. Whenever such hearing is given, the appointing authority shall give the police officer or fire fighter upon whom the punishment duty is imposed a written notice of his finding within two days after the hearing. If, after such hearing, the appointing authority finds no just cause exists for the imposition of punishment duty, such punishment duty shall be deemed not to have been imposed; if, after such hearing, the appointing authority finds that just cause does exist for the imposition of punishment duty, the police officer or fire fighter upon whom the punishment duty is imposed may appeal to the commission as provided in paragraph (b), and he or the appointing authority shall be entitled to judicial review of the action taken by the commission as provided in paragraph (d). The provisions of paragraph (c) shall apply to all hearings under this paragraph. Notice of any action taken by the appointing authority under this paragraph shall be forwarded forthwith to the personnel administrator.

(h) Any person holding office or employment under permanent appointment in the official or labor services of the commonwealth, or any county, city, town or district thereof who has incurred expense in defending himself against an unwarranted discharge, removal, suspension, laying off, transfer, lowering in rank or compensation, or abolition of his position, shall, if he engages an attorney for such defense, be reimbursed for such expense; provided, however, that the amount of such reimbursement shall in no event exceed an aggregate sum of nine hundred dollars. Such reimbursement, in each instance, shall be limited to a sum not

to exceed two hundred dollars in:-

(1) a hearing by the appointing authority;

(2) a hearing by the civil service commission;

(3) a judicial review by the municipal court of the city of Boston or by the district court within the judicial district where such person resides, as provided in section forty-five.

In addition thereto, reimbursement in each instance shall be limited to a sum not to exceed one hundred dollars for:-

(1) summons of witnesses;

(2) cost of stenographic transcript;

(3) any other necessary expense incurred in such defense.

Any such person shall, upon written application made to his appointing authority within thirty days from final disposition of his case be reimbursed from the same source from which his salary is paid. Such reimbursement shall be paid within thirty days from the receipt of such written application by the appointing authority. No reimbursement shall be made except upon receipt of satisfactory proof that such expenses were actually incurred for the purposes set forth in this section.

(i) In the computation of any period of time limited by this section, Saturdays, Sundays and holidays shall be excluded.

(j) The provisions of this section or sections forty-five and forty-six A shall not apply to any person who has been reported as on unauthorized absence as provided for in section eighteen.

APPENDIX A

Acts of 1977 - Chapters effecting the Civil Service Law

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MASSACHUSETTS GENERAL LAWS, CHAPTER 31, SECTION 43 ALSO INCLUDED FOR YOUR INFORMATION

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